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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,925	08/16/2005	Yoshinori Sato	NAGACO1.001APC	6147
29995 7590 09/22/2009 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER GWARTNEY, ELIZABETH A				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
09/22/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Interview Summary

Application No.

10/521,925

Applicant(s)

SATO ET AL.

Examiner

Elizabeth Gwartney

Art Unit

1794

All participants (applicant, applicant's representative, PTO personnel):

(1) Elizabeth Gwartney.(3) Ned Israelsen.(2) Keith Hendricks.(4) Will Noon.

Date of Interview: 10 September 2009.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal (copy given to: 1) ☐ applicant 2) ☐ applicant's representative

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 1, 4, 5, 10, 12 and 13.

Identification of prior art discussed: Li (WO 00/19837).

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/E. G./
Examiner, Art Unit 1794

/KEITH D. HENDRICKS/
Supervisory Patent Examiner, Art Unit 1794

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: In an Office Action mailed, Claims 5 and 13 were indicated as allowable if rewritten in independent form. Applicants requested an interview to discuss the allowable claims and several proposed amendment. First, applicants proposed amending claim 1 to replace the recited glass transition temperature of 55 to 80C to "at least 58C." Applicants find support for the amendment on page 8 where the table shows that poly L lactic acid (PLLA) has a glass transition temperature of 58C. However, Examiner finds, while there is support to indicate that poly L lactic acid has a glass transition temperature of 58C, there is no support for temperatures above 58C as would be included in the recitation of "at least 58C. Applicants explain that poly L lactic acid polymers will vary in glass transition temperature depending on molecular weight and therefore there is support for temperatures different than 58C. However, Examiner finds there is not support for the broad recitation "at least 58C."

Further, to clarify, Examiner has indicated that claim 5 which includes a composition which contain no lactic acid polymers other than a poly L lactic acid polymer, is allowable. Therefore, claim 1, even amended to include a glass transition temperature of at least 58C would not be indicated as allowable with the recitation "and/or other lactic acid polymers." Applicants submit that given the disclosure of Li (WO 0019837) which states that since PLLA is highly crystalline and has a glass transition temperature around 58C, it is rigid at room temperature and, is not suitable as a chewing gum masticatory ingredient, a poly lactic acid polymer generally, with a glass transition temperature of at least 58C would not be suitable as a chewing gum masticatory ingredient. In this case, Examiner finds, while Li teaches against using a pure poly L lactic acid polymer because it has a glass transition temperature of 58C, there is no teaching or suggestion that other poly lactic acid polymers having a glass transition temperature "at least 58C" would not be suitable as chewing gum masticatory ingredients.

Claim 4 recites "wherein substantially all of said lactic acid polymer is a poly -L-lactic acid polymer." Applicants suggest amending claim 4 to recite "wherein said lactic acid polymer consisting essentially of a poly-L-lactic acid polymer." Applicants explain that by amending the claim to "consisting essentially of" allows for small amounts of impurities in the polymer. Examiner does not find that there is support in the specification to include the phrase "consisting essentially of." Applicants explain that originally the claim read "virtually" which really means "consisting essentially of", therefore, there is support for the change in the claims as originally filed. If this is the case, Examiner asked why the claimed was originally amended from "virtually" to include "substantially all" if "virtually" means "consisting essentially of." In other words, Examiner inquired what the difference between "substantially all" and "consisting essentially of" is. Applicants find that "consisting essentially of" is more narrow than "substantially all." It appears that applicants are trying to establish patentability based on the difference between "consisting essentially of" and "substantially all", neither of which have direct support in the specification.

Lastly, applicants asked for guidance in amending claim 1 to incorporate the allowable subject matter of claim 5. Applicants suggest amending claim 1 to read "A gum has composition comprising biodegradable ingredients, wherein said biodegradable ingredients include lactic acid polymer wherein said poly lactic acid polymer contains no lactic acid polymers other than a poly-L-lactic acid polymer in an amount of from 5% by weight to 60% by weight, and an emulsifying plasticizer in an amount of from 1% by weight to 20% by weight." Examiners indicated that they would further evaluate the proposed amendment and contact applicant if necessary when the amendment was received.